

COMMISSION DIRECTIVEADMINISTRATIVE MATTERS ☐DATE April 11, 2006MOTOR CARRIER MATTERS ☒DOCKET NO. 2005-22-T &
2004-240-TUTILITIES MATTERS ☐**SUBJECT:**

Docket No. 2005-22-T – Request of Commission Staff for Investigation by the Office of Regulatory Staff of K & K Investments, Inc. d/b/a Apartment Movers, Etc. and America's Best Moving System

-and-

Docket No. 2004-240-T – Application of K & K Investments, Incorporated d/b/a Apartment Movers, Etc. for a Rate Increase -

Discuss these matters with the Commission.

COMMISSION ACTION:

First, move that we deny the motion to strike of the Respondent K&K Investments, Inc. (K&K). This Commission has the authority to take judicial notice of filings in its own dockets, especially when, as here, a witness in the present proceeding files correspondence of potential relevance to a subject that received great focus in the docket.

Second, K&K is responsible for knowing the statutes, rules and regulations of the Commission and for complying with these requirements. It is a well established principle of law in South Carolina that those who engage in a particular business bear the responsibility of familiarizing themselves with the applicable statutes and regulations governing the industry. As the Respondent itself stated in its motion to strike, the law would presume that an applicant "would investigate and possess knowledge of the regulatory process sufficient to equip it to follow this Commission's procedures." However, K&K failed to do the very thing it acknowledges that the law requires, at least until this Commission was forced to expend its resources and those of the Office of Regulatory Staff in a proceeding to investigate the Respondent's lack of compliance with this Commission's laws and procedures.

Therefore, move that this Commission further conclude that a clear admonition is warranted, and that K&K is hereby admonished that the Commission does not, and will not, tolerate continued violations of the law governing for-hire motor carriers. K&K has undertaken to provide for-hire, regulated transportation services within the State of South Carolina. In submitting to the jurisdiction of this Commission, K&K has, through its owners and agents, sworn to operate in compliance with the laws of this State. K&K is engaged in a business that is regulated by the State of South Carolina. Compliance with the laws governing that business is mandatory.

According to the reports from the Office of Regulatory Staff (ORS), the Respondent, only after initiation of these proceedings, undertook action to comply with the requirements of the Commission and to conform its practices to those required by state law. In light of K&K's past non-compliance, I am reluctantly persuaded to move that we grant the Applicant's requests for a fuel surcharge and rate increase. Further, move that this Commission request that the ORS provide a follow-up report in six months, at which time this Commission will review whether or not the Respondent has continued to meet the requirements of the Commission and to conform its practices to those required by state law. The Respondent should consider this a probationary period in which it should demonstrate to this Commission that it can maintain compliance with its laws and procedures.

PRESIDING Mitchell

	MOTION	YES	NO	OTHER		
					APPROVED	<input type="checkbox"/>
					ACCEPTED FOR FILING	<input type="checkbox"/>
CLYBURN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not Voting	DENIED	<input type="checkbox"/>
FLEMING	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		AMENDED	<input type="checkbox"/>
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		TRANSFERRED	<input type="checkbox"/>
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		SUSPENDED	<input type="checkbox"/>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		CANCELED	<input type="checkbox"/>
MOSELEY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Absent	SET FOR HEARING	<input type="checkbox"/>
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		ADVISED	<input type="checkbox"/>
					CARRIED OVER	<input type="checkbox"/>
Session: Regular					RECORDED BY	<u>T. DeSanty</u>

Time of Session 2:30 PM

*Commissioner Moseley was on Annual Leave

*Commissioner Clyburn was attending a Conference in Atlanta, GA on the day of the Hearing